IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTIETH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 2547 of 1996

Between:

M/s. South India Mercantile Pvt. Ltd.

rep. by Director U.P.Agarwal, S/o B.P. Agarwal
118, Moosapet, Sanathnagar,
Hyderabad-18.

..... PETITIONER

AND

1 Smt. Indumathi W/o. D.V. Thiwari,
5-2-85, Moosapet, Hyderabad.
2 Additional Labour Court, Hyderabad,

rep. by Presiding Officer,
Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction or writ particularly one in the nature of writ of Mandamus declaring that the award of the Labour Court in I.D.No.94 of 1994 dt: 30-8-1994 as bad in law and unenforceable in law.

Counsel for the Petitioner: MR.K.SATYANARAYANA RAO

Counsel for Respondent No.1: NONE APPEARED

Counsel for Respondent No.2: GP FOR LABOUR

The Court made the following :

ORDER:

This writ petition is filed by the Management assailing the award passed by the Additional Industrial Tribunal-Cum-Labour Court, Hyderabad in I.D.No.94 of 1994, dated 31-05-1995, wherein the 1st respondent herein was granted relief of payment of wages from 10-05-1994 to 16-09-1994 at the rate of Rs.42/- per day apart from granting a compensation of Rs.5,000/- towards wrongful dismissal.

Respondent No.1, who was appointed as a Packer by the petitioner-management in the year 1988, filed a claim petition under Section 2-A(2) of the Industrial Disputes Act, 1947 (for short 'the Act') alleging that her services were terminated orally on 10-05-1994 and sought for relief of reinstatement with continuity of service and with full back wages. The petitioner-management herein filed a counter denying the allegations made by the 1st respondent and stated that she was only a casual labourer and she did not work for 240 days within a period of one year preceding date of her termination. Therefore, the question of applicability of Section 25 F of the Act does not arise. Further the doctrine of "last come first go" principle also does not apply. Before the Labour Court, the 1st respondent herein examined herself as W.W.1 and filed documents-Exs.W.1 to W.4. On behalf of the management M.W.1 was examined and Exs.M.1 to M.8 were marked. After appreciation of the entire evidence on record, the Labour Court came to the conclusion that the 1st respondent herein worked for more than 240 days and as such she is a workman within the meaning of Section 2(s) of the Act and she is entitled to raise the dispute. The attendance-cum-wage register filed by the management disclosed that the petitioner and other workers were paid daily wages, but once in a week. The Labour Court further felt that in the normal circumstances

the 1st respondent was entitled for reinstatement with backwages and continuity of service, but, the evidence of M.W.1 as well as Ex.M.8-letter of Vardhaman Chemicals Limited disclose that the latter stopped supplying salt to the management for packing and distribution. So, there was no more necessity of engaging the Packers. Further, it was mentioned in Ex.M.6 that the other workers were also discontinued on 17-09-1994 as the packing was stopped in view of expiry of contract with Vardhaman Chemicals Limited. Under those circumstances, the Labour Court granted only wages, which were being paid to the other workers from 10-05-1994 to 16-09-1994, apart from the compensation of Rs.5,000/- towards wrongful dismissal.

Looking from any angle, the award of the Labour Court cannot be said to be illegal or irrational. Admittedly, the 1st respondent was appointed as a Packer by the petitioner-management in the year 1988 on daily wage basis and she worked up to 10-05-1994, on which date her services were terminated orally without assigning any reason. On the basis of the records, the Labour Court came to the conclusion that the oral termination of the petitioner is without following the procedure prescribed under Section 25-F of the Act. Such a finding recorded by the Labour Court does not call for interference of this Court. In fact the Labour Court was pragmatic and therefore, did not direct wages for the entire period till the date of passing of the award as the other workers were discontinued w.e.f. 16-09-1994. The Management was directed to pay wages for all the working days from 10-05-1994 to 16-09-1994 at the rate of Rs.42/- per day i.e., the period for which she was put out of service wrongfully and the Labour Court also rightly granted Rs.5,000/- as compensation towards wrongful dismissal.

Writ petition is devoid of merits and is liable to be dismissed. Accordingly, the writ petition is dismissed. No costs.

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20-01-2005

vs

To

1 The Presiding Officer, Additional Labour Court, Hyderabad,

Hyderabad.

2 2CCs to the G.P for Labour, High Court Buildings,

Hyderbad(O.U.T).

3 2CD copies.